

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.,

PLAINTIFFS,

v.

U.S. DEPARTMENT OF
TRANSPORTATION et al.,

DEFENDANTS.

NO. 2:25-cv-00848

DECLARATION OF KRISTINE
WARD IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

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KRISTINE WARD
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INJUNCTION

ATTORNEY GENERAL OF WASHINGTON
Environmental Protection Division
800 Fifth Avenue STE 2000
Seattle, WA 98104
206-464-7744

1 I, Kristine Ward, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that
 2 the foregoing is true and correct:

3 1. I am a resident of the State of Arizona. I am over the age of 18 and have personal
 4 knowledge of all the facts stated herein, except to those matters stated upon information and
 5 belief; as to those matters, I believe them to be true. If called as a witness, I could and would
 6 testify competently to the matters set forth below.

7 2. I am currently employed by the Arizona Department of Transportation (“ADOT”)
 8 as Chief Financial Officer.

9 3. As Chief Financial Officer, I am responsible for the oversight and management
 10 of the Department’s funding, including the federal funding apportioned or awarded to the State.

11 4. Federal funding, formula and discretionary, constitutes the largest single source
 12 of funding supporting Arizona’s transportation system. Delays in funding result in the slow-
 13 down or deferment of projects critical to the safety and welfare of Arizona’s citizens, businesses,
 14 and economy.

15 5. Upon information and belief, as one of her first actions in office, Arizona
 16 Governor Katie Hobbs announced the creation of the Governor’s Office of Resiliency—uniting
 17 water, land use, transportation, and energy policy areas under one umbrella, with the goal of
 18 addressing compounding threats to Arizona’s water, natural resources, and impacts of the
 19 climate crisis. In a collaborative effort with Arizona State University and Northern Arizona
 20 University, the Office of Resiliency identified transportation as the single largest contributing
 21 factor to greenhouse gas emissions in Arizona in 2021. Upon information and belief, as a result
 22 of these findings, the Governor’s Office prioritized public fleet electrification and developing
 23

publicly available charging infrastructure. Upon information and belief, these two initiatives are estimated to reduce cumulative greenhouse gas emissions by almost 3 million metric tons between 2025 and 2050. Funding from the National Electric Vehicle Infrastructure (“NEVI”) Formula Program is critical to achieving these emission-reduction goals.

6. Like many states, Arizona expected the NEVI Formula Program, established in the Infrastructure Investment and Jobs Act (“IIJA”), to play a critical role in the State’s ability to transition to electrification of vehicles. See IIJA, Pub. L. No. 117-58, 135 Stat. 429 (2021).

7. The IIJA allocated \$5 billion over federal fiscal years 2022 through 2026 for the NEVI Formula Program to fund strategic deployment of electric vehicle (“EV”) charging infrastructure. The Federal Highway Administration (“FHWA”) administers the NEVI program. Each state is required to submit a State Electric Vehicle Infrastructure Deployment Plan (“State Plan”) for each fiscal year describing how the state intends to use the NEVI funds.

8. The IIJA further requires the Secretary of Transportation, within ninety (90) days of the statute’s enactment and in coordination with the Secretary of Energy, to develop “guidance for States and localities to strategically deploy electric vehicle charging infrastructure” consistent with the NEVI Formula Program provisions of the IIJA (“NEVI Formula Program Guidance”). FHWA issued NEVI Formula Program Guidance on February 10, 2022, and has updated the guidance annually.

9. Arizona prepared and provided to the FHWA its State Plans for fiscal years 2022-2024 describing how it intended to use its share of funds to carry out the NEVI Formula Program. The 2022 State Plan identified 21 prospective EV station locations along Arizona’s Interstate highways. The 2023 State Plan identified an additional 15 prospective EV station locations on

seven new alternative fuel corridors, and the 2024 State Plan identified 17 prospective EV station locations on nine new alternative fuel corridors.

10. The FHWA approved the 2022, 2023, and 2024 State Plans in letters dated September 14, 2022, September 29, 2023 and November 15, 2024, respectively (“State Plan Approvals”), making funds available for obligation for fiscal years 2022 through 2025. Each letter explicitly stated that “[w]ith this approval ... funds are now available to Arizona for obligation.”

11. Approximately \$11.3 million in NEVI funding was made available to Arizona for Federal Fiscal Year (“FFY”) 2022 and \$16.3 million was made available for FFY 2023 as a combined total amount of \$27.6 million in FFY 2023. In addition, approximately \$16.3 million was made available each year in FFY 2024 and 2025.

12. On August 21, 2024, ADOT issued conditional awards to six developers for 18 EV charging station locations along Arizona’s Interstate Highways. As of January 28, 2025, \$12,090,426 has been obligated by the FHWA for the costs of initiating the program and building the 18 EV charging stations. ADOT has executed contracts with three developers and is in the process of executing contracts with the remaining three developers. ADOT has issued notices to the developers with executed contracts to proceed with designing the EV stations and obtaining materials.

13. On January 20, 2025, President Trump issued an Executive Order (“EO”) entitled Unleashing American Energy. Section 7(a) of the EO directs all agencies to “immediately pause disbursement of funds appropriated through” the IIJA, “including but not limited to funds for electric vehicles charging stations made available through the [NEVI] Program.”

1 14. On February 6, 2025, ADOT received a letter from Emily Biondi, the Associate
2 Administrator for the Office of Planning, Environment and Realty in the FHWA, with the subject
3 “Suspending Approval of State Electric Vehicle Infrastructure Deployment Plans.”

4 15. The February 6 letter informed State Transportation Directors that the new
5 leadership of DOT “has decided to review the policies underlying the implementation of the
6 NEVI Formula Program” and was therefore rescinding NEVI Formula Program Guidance.

7 16. The February 6 letter further claimed that FHWA “aims to have an updated draft
8 NEVI Formal Program Guidance published for public comment in the spring” and that the
9 Agency “will publish updated final NEVI Formula Guidance that responds to comments
10 received” after the public comment period has closed.

11 17. Finally, the FHWA informed ADOT that it would be “immediately suspending
12 the approval of all State Electric Vehicle Infrastructure Deployment plans for all fiscal years”
13 and prohibiting future obligations “under the NEVI Formula Program until the updated final
14 NEVI Formula Program Guidance is issued and new State plans are submitted and approved.”

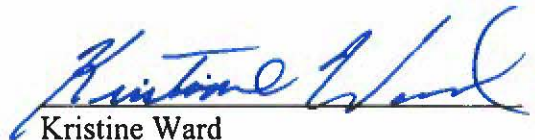
15 18. The February 6 letter therefore made clear that Arizona would not have access to
16 the approximately \$48.1 million of unobligated funds which had been made available to Arizona
17 through its State Plan Approvals.

18 19. ADOT relied and acted upon the FHWA’s statutory obligation to provide NEVI
19 formula funding consistent with the IIJA’s requirements. On January 19, 2025, ADOT issued a
20 solicitation for 35 prospective EV charging station locations identified in its State Plans. ADOT
21 spent a significant amount of funds and staff time preparing this solicitation, which had to be
22 canceled after the State Plans were suspended. This loss is in addition to the loss of funds and
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1 staff time needed for the development of the 2023 and 2024 State Plans, which are suspended.
2 ADOT was not the only party to suffer losses. Prospective developers invested time and money
3 in preparing to respond to the solicitation prior to cancellation.
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5 I declare under penalty of perjury under the laws of the United States that, to the best of
6 my knowledge, the foregoing is true and correct.

7 DATED this 5th day of May, 2025, at Phoenix, Arizona.

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9 Kristine Ward
10 Chief Financial Officer
11 Arizona Department of Transportation
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